UNITED STATES OF AMERICA

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DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

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EFT 99 PUBLIC HEARING

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THURSDAY
OCTOBER 30, 1997

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BALTIMORE, MARYLAND

The public hearing was held at the Baltimore Branch of the Federal Reserve Bank of Richmond, 502 S. Sharp Street, Baltimore, Maryland, at 9:30 a.m., Donald Hammond, Deputy Fiscal Assistant Secretary, presiding.

PRESENT:

Donald Hammond
Larry Stout
Larry G. Massanari
Michael D. Johnson
Bettsy Lane

ALSO PRESENT:
Frank Amoruso
Jean Ann Fox
Imelda Gonzalez
Don Graves
Barbara Leyser
Robert Morin
Jerry Reynolds
Steven Wolf

I-N-D-E-X

P-R-O-C-E-E-D-I-N-G-S

(9:38 a.m.)

MR. HAMMOND: Good morning, and I'd like to thank everybody for coming and also thank everybody for their patience this morning. There have been a little bit of traffic delays and logistical difficulties and appreciate your bearing with us as we get started.

I think we have plenty of time this morning to go through all the panels and listen to everybody, so the delay certainly won't have any effect on the proceedings today other than the late start.

My name is Don Hammond. I'm the Deputy Fiscal Assistant Secretary at the Treasury Department, and I'd really like to welcome to you again today to our proceedings. I think that we appreciate your interest in this important matter and we look forward to hearing your insights and concerns throughout the session today.

Before we proceed, I would like to thank the Federal Reserve Bank as always for its outstanding logistical work and the use of its facilities. I think as you can see they've done an outstanding job again today in accommodating everyone.

I would also like to introduce my fellow panelists this morning. To my right is Larry Stout. He's the Assistant Commissioner at the Financial Management Service for Federal Finance. To my left is Larry Massanari. He's the Regional Commissioner for the Social Security Administration for the Philadelphia Region. To my far left is Michael Johnson. Michael is the Director of the Payment Recovery Policy Staff at the Social Security Administration as well. And to my far right is Bettsy Lane who's the Director of the Cash Management Directorate of the Financial Management Service and will be our moderator this morning as well.

In writing the proposed regulations, the Treasury Department met with numerous groups, in fact many of you in this audience today, including consumer and community organizations, trade associations, vendors, financial institutions and other financial service providers to gather as much insight as possible into what EFT means to these groups and to your constituencies. We made every attempt to adhere to four basic but critical principles from our standpoint in drafting the proposal.

The first is that the transition to EFT should be accomplished with the interests of recipients being of paramount importance. The second is that our policies should maximize private sector competition for the business of handling federal payments so that recipients not only have a broad range of payment options but also receive their payments at a reasonable cost with substantial consumer protections and with the greatest possible convenience, efficiency and security.

The third principle was that recipients, and especially those having special needs, the elderly, individuals with physical disabilities and those living in rural or remote locations, should not be disadvantaged by the transition to EFT and the fourth is that the EFT 99 Program should bring recipients without bank accounts into the mainstream of the financial system as much as possible.

With these criteria in mind, I would again like to stress how essential your input is today and throughout the comment period which is open until December 16th to writing a final regulation that is fair, practical and meets all of the recipients' varying needs.

At this point in the process, I'd like to turn things over to Bettsy and she'll proceed with the proceedings. Thank you.

MS. LANE: Thank you, Don, and thank all of you for coming today. We're going to ask the panelists to limit their remarks to 10 minutes or less and at the end of each panel there will be an opportunity for questions from the government panel. I want to remind you that we are in a rulemaking process. What this means is the panelists may not get answers to all their questions today. We're here to listen to input.

The proceedings will be recorded and the document will be available on the FMS web site within two weeks. For those people who do not have access to the Internet, we will provide a paper copy if you indicate that's your preference.

I assume that you picked up a packet of information when you arrived and you would also have received a notice that we are adding a hearing in Los Angeles on December 9, 1997. So that is well a week before the comment period ends on December 16th. I would also have you note that there's a toll free number for information about that hearing or to register.

Let me introduce the first panel. The first panel will be two individuals, Robert Morin who is the AARP VOTE Congressional District coordinator and Jerry Reynolds, the Chairman of the EFT Subcommittee of the National Community Reinvestment Coalition. We'll start with Mr. Morin.

MR. MORIN: Thank you. Good morning, members of the panel, guest panelists and members of the audience. Thank you on behalf of the American Association of Retired Persons for inviting us here this morning. My name is Robert Morin and I am AARP's VOTE Program District Coordinator for the 8th Congressional District in Maryland. I shall present our views regarding the U.S. Department of Treasury's proposed regulations to implement EFT 99. Today we want to comment on the essential elements of the electronic transfer accounts that are necessary to meet the needs of unbanked federal payment recipients.

AARP has a major interest in the EFT 99 mandate which requires almost all federal payments to be made electronically by January of 1999 or 2000 if the payment recipients are unbanked. This mandate has a disproportionate impact on older Americans. Some 6.5 million Social Security and SSI recipients do not have bank accounts. Eleven percent of all Social Security and 58 percent of all SSI recipients are without bank accounts. According to a Treasury study, the major reason federal payment recipients do not have bank accounts is that they do not believe they have enough money to justify an account.

Other reasons cited by recipients include they do not need an account, account fees are too high and they may have problems managing an account. However, because 58 percent of unbanked recipients cash their checks at banks, a formal relationship with financial institutions may be possible if appropriate services are offered to the unbanked.

The chief obstacles to building banking relationships include recipients have a low or a limited number of monthly payments that represent most, if not all, household income. They have an inability to afford banking fees and there is a lack of protection against an increase in these fees. Their community is isolated or they are remote from banks and there are limitations that inhibit persons with disabilities from accessing their payments. Unless these issues are addressed, it is unclear how mandatory EFT or the default account ETAs will increase access to the banking system. In fact, the new requirements may force many unbanked individuals to pay fees that they currently are not required to pay.

For example, 30 percent of unbanked recipients regularly cash their checks for free at grocery stores and super markets and they are now able to avoid additional transaction costs by using cash wherever possible. Other problems the unbanked have with EFT include uncertainty regarding when a payment will arrive, problems accessing money if an account is frozen or under dispute such as in the case of a divorce, and the fear of slow resolution to the problem of late or missing payments. Also, many older check recipients simply prefer to personally handle their money while others simply dislike writing checks or using automated services.

Please note that a plurality of all federal recipients in the Treasury study object to mandatory EFT. Given the particular vulnerability of banked as well unbanked consumers living on limited and fixed incomes, it is critical that the implementing regulations be carefully crafted to include consumer protections. AARP recommends that Treasury limit transaction and account fees, require minimal banking accounts with Regulation E protection and provide public education about the impending change.

In addition, specific protection should be incorporated in the design of ETAs. For example, exclude from participation fringe financial service providers such as check cashers and pawn shops. Set reasonable minimum initial deposit and balance requirements, set a reasonable number of free withdrawals to be permitted each month. Provide a monthly statement or passbook detailing account activity and offer mainstream bank account privileges such as personal deposits and writing checks.

Further, we encourage Treasury to use existing organized networks to provide information to the unbanked and help with linking unbanked recipients with essential financial services to encourage them to become part of mainstream banking. For example, it's important for recipients to know that their federal benefits are covered by Regulation E but their state benefits are not. Such information is crucial prior to deciding to place one's federal and state benefits on card. The federal government has a responsibility to foster such educational and outreach activities.

In conclusion, the absence of consumer protection increases the likelihood that unbanked individuals will opt not to open accounts and therefore remain outside the mainstream banking system. Although electronic funds transfers offer significant benefits for consumers and the federal government, consumer protections need to be in place well before the January 1, 1999 and 2000 deadlines. This is particular important for the unbanked. AARP stands ready to work with you in this critical endeavor. Thank you.

MS. LANE: Thank you, Mr. Morin.

Mr. Reynolds.

MR. REYNOLDS: Thank you. Distinguished panel members, ladies and gentlemen, as noted, my name is Jerry Reynolds. Thank you for the opportunity to appear here today. Since I understand that we now have a meeting scheduled in Los Angeles, I will applaud you for that instead of haranguing you a bit, as I had planned to.

I represent two organizations today. As a board member of the National Community Reinvestment Coalition, a national body composed of more than 600 community groups, my presence as the EFT Subcommittee Chair bespeaks the keen interest NRC has taken in evolution of electronic funds transfer toward positive reinvestment practice. However, I hasten to add that NCRC has not finalized its position on all of the complex issues surrounding electronic funds transfer.

As the Department of the Treasury is in the process itself of responding to this revolution in banking practice, so NCRC is in the process of establishing its own response, no simple matter in a coalition of more than 600 community groups. Subcommittee recommendations will be taken up at the committee level and referred to the full board in time for NCRC to submit final official comments by the December 16 closure of the comment period.

In the mean time, my remarks represent the provisional best thinking of the EFT Subcommittee to date. On the NCRC Board, I represent First Nations Development Institute, a grant making organization of 17 years standing that assists Native Americans in mobilizing reform minded, culturally viable and economically achievable private sector enterprises. We have come to consider EFT a potential passport to enhanced banking relationships for Native American and rural communities. First Nations fully supports my work on EFT issues as an NCRC Board Member.

One of Treasury's domestic policy objectives is to introduce unbanked individuals to bank depository relationships through EFT. One of NCRC's primary objectives is to expand equitable banking services and reinvestment practices in the neighborhoods and communities that it represents. Accordingly, my remarks contemplate the introduction of the unbanked to mainstream financial channels as an opportunity for personal and community development rather than simply as a matter of more convenience for individuals and more opportunity for banks, important though both of those points are.

In response to the proposed rule, NCRC, the National Community Reinvestment Coalition -- I'll refer to it as NCRC -- applauds the limitation of EFT payment agents to federally regulated financial depository institutions but, as written, the recommended policy overlooks any rule for the Community Reinvestment Act ratings. As a practical matter, it is understood that to limit payment agents to institutions rated outstanding for CRA purposes would impose a further hardship on already disinvested communities.

Therefore, NCRC advocates that institutions with a satisfactory or better CRA rating be permitted as payment agents but only institutions with an outstanding CRA rating should be eligible to bid on the electronic transfer accounts Treasury proposes to describe. The EFT law is a proper but still extraordinary opportunity for financial institutions and only those banks with a demonstrated record of community reinvestment should be encouraged to benefit from it.

For reasons sufficiently addressed in the proposed rule, bank partnerships with check cashers or money transfer outlets should be banned from EFT activity for as long as such partnerships are in effect. An outright ban on these partnerships will have a secondary beneficial effect of preempting check cashers that may want to purchase banks for EFT purposes. For reasons again adequately anticipated by the Department, the definition of authorized payment agent must not currently be broadened to third parties except in cases of mental or physical incapacitation, but two possible exceptions present themselves for future consideration.

In future NCRC hopes that EFT will prove the needed prod for bringing CRA coverage to credit unions with $50 million or more in assets. I understand that the final disposition of credit unions with regard to EFT participation may await legal determinations with regard to their charters and other matters but as an operational matter, federal credit unions are well situated to provide EFT access to their members. They are federally regulated. They have a fiduciary responsibility toward their account holders. They distribute and settle electronic financial transactions through the automated clearinghouse, a dispositive practical consideration, and their strong presence in many cities and neighborhoods additionally recommends them as authorized payment agents under CRA coverage.

In future, too, we on the subcommittee believe the U.S. Postal Service has some potential as an authorized payment agent. The presence of a post office in almost every American community along with the agency's minimal direct impact on community reinvestment suggests a common sense exemption from the CRA standard NCRC favors for other authorized payment agents. But any post office branch so designated must work in partnership with banks and only with those banks rated satisfactory or above for CRA compliance.

Now to address some community EFT issues. As you know, the EFT Revolution will be dealt with in every community and in every community the potential exists for different views on the basic attributes of Treasury's electronic transfer accounts. The National Community Reinvestment Coalition will register and represent these views in due course as we gather them from our members. Again, I proceed on the precautionary note that the views below are not final official NCRC policy but represent the best thinking to date of the NCRC Subcommittee on Electronic Funds Transfer.

The needs of unbanked or technology averse individuals should be addressed by keeping costs down, providing only a basic withdrawal service at the lowest possible cost with additional service charges for additional features. Four free withdrawals a month should be included in the base price of the account. The account structure should allow for four electronic or non-electronic deposits per month as well. Third party payment capability should not be a part of the basic account -- it may be a feature -- but a savings feature should be a part of the basic account and it can be structured, we see no reason right now why it can not be structured along lines of the parallel savings accounts associated with individual development accounts which are allowed for under the Welfare Reform Act.

Accessibility should be addressed in the ETA bid. The emphasis should be on a broad range of access so that neighborhood areas are not singled out for many purposes. The predatory and criminal ones come first to mind, of course. Treasury should make available a debit card based account for EFT beneficiaries and with proper precaution, of course. Developments in electronic benefits transfer pilot studies suggest that debit cards will be an important feature of electronic monetary transactions and the unbanked should not be left out for EFT purposes.

Incentives should be structured into the ETA bid for banks to serve remote rural and reservation areas through mobile banking units. This is the firm position of First Nations Development Institute. How the full committee at NCRC feels about offering incentives for banks to serve remote rural and reservation areas remains to be seen. Just between us in this room, I will be making the case pretty strongly at a board meeting.

De facto disinvestment as a function of EFT waivers should be avoided through an ongoing educational campaign. Electronic funds transfer is a material revolution that requires parallel psychological adaptation. For many people, especially those not accustomed to depository relationships, EFT will alter the mental modeling of our world. An effective public education campaign including hands on workshops in out of the way places is the best bet for public interest intercession in the EFT Revolution and both of the organizations I represent here today can be counted on to assist in ways yet to be determined.

I wish to conclude my written remarks by requesting that the statement of the MacCauley Institute, a member of the National Community Reinvestment Coalition with views of its own on EFT and special needs populations, be accepted into the record at this point and that that paper is with the panel, and I will be glad to answer any questions.

MS. LANE: Thank you, Mr. Reynolds.

Questions from our panel?

MR. HAMMOND: I'll be happy to start off. I had a question for Mr. Morin and specifically there was a recurring theme in your testimony this morning on the issues of consumer protection and I was particularly interested in what types of consumer protections beyond Regulation E or whatever that you might be interested in or is your attention primarily focused on existing Regulation E?

MR. MORIN: Regulation E is the primary focus, but we would like to submit for the record additional comments to you on the other protections that we'd like to develop, some of the protections that I mentioned, even further.

MR. HAMMOND: Thank you.

MR. STOUT: I'd like to follow up with Mr. Reynolds. You had commented about the Postal Service being one of those institutions you thought might be an outlet for services to the unbanked. Your comment was that you would recommend that or at least could see that happening in a situation where the Postal Service had a partnership with a bank and could you say a little bit more about what your thinking is about that partnership.

MR. REYNOLDS: I don't think that banks will independently acquire ATM networks. I think they'll have to partner with banks, negotiate with banks. Some form of the partnership will have to take place. We wouldn't be in favor at this point of simply designating the post office as an independent payment agent.

MR. JOHNSON: I have a question for Mr. Morin. I think one of the phrases you used in describing electronic funds transfer was the inherent uncertainty of delivery. I wondered if you'd elaborate a little bit on that, given the fact that an EFT transaction does have a posted settlement date and under Treasury regulations the receiving financial institution is required to make that payment available as of opening of business. Our data indicates that there's more certainty with EFT than there is check. I just was asking you to elaborate a little bit on that.

MR. MORIN: Our sense is that that Treasury study -- and it may well be in the minds of the individuals who were part of that study.

MS. LANE: I have a question for Mr. Morin. You mentioned that you thought the ETA account should offer 10 free withdrawals. I wonder how you arrived at the number of 10 and do you have any sense of what that might cost?

MR. MORIN: I think that number 10 was a staff recommendation based on their analysis but I think they were looking at the costs of managing accounts in general and I think that the 10 was a reasonable number that they thought that the banks could deal with. My colleague here came up with the number four and he may have a further comment on that as well.

MR. REYNOLDS: Yes, if you wish. Our purpose in arriving at any number was to keep the amount of paper within the system at a minimum in order to keep the price down and the number four was based on the idea that there should be at least that many because some people get a paycheck once a week, perhaps not a government check but a paycheck, and if the account is open to other deposits they might well want to come by and make a deposit and withdrawal four times a month if they get a paycheck four times a month.

MR. MORIN: I think that AARP would be willing to sit down with the members of the bank trade associations and come up with a reasonable number. I think that that's probably where both of us are coming from. Just a reasonable number is what we're --

MS. LANE: And we have asked for comments on that in our proposed rule, so there will be an opportunity.

MR. MORIN: And I think we'd like to comment further on that as well.

MR. HAMMOND: For Mr. Reynolds. I'd like to elaborate a little bit on the CRA reference that you had and specifically not with regard to the ETA because I think I understood the notion of an outstanding rating being required to be a bidder for an ETA account. Where I got a little bit confused and if you could elaborate just a little bit is how a satisfactory rating would factor in to being a financial institution receiving electronic payments since it's hard to differentiate between the role just an institution receiving electronic payments in the course of being a depository institution. Was it limited more to the authorized payment agent concept?

MR. REYNOLDS: Yes. It's simply a matter of banks who under law, as you know probably, they're required to undergo CRA examination and there are four ratings and one is not satisfactory or maybe it's need to improve, I'm not sure.

MR. HAMMOND: It's not good whatever it is.

MR. REYNOLDS: It's not good. Not satisfactory, need to improve, satisfactory, outstanding. We at NCRC feel that since the advent of new rules implementing the Community Reinvestment Act there has been some substantial great inflation for banks and so the satisfactory rating is not as good as it used to be and you have to try pretty hard we feel to get a nonsatisfactory or needs to improve. You're not really doing community reinvestment with the money that comes into your institution if you get less than a satisfactory.

Frankly, we'd like to see simply no bank without an outstanding rule would be able to participate but that's not realistic because, of course, too many communities banks have an only satisfactory rating. But it's simply a matter of a bank's reinvestment practices. A bank that is not reinvesting in the community to at least the level of a satisfactory rating should not be able to reap any benefit from this kind of windfall opportunity. Their track record simply doesn't inspire any confidence that the accounts they manage will be managed to the betterment of the community as a whole.

MR. HAMMOND: Thank you.

MR. MASSANARI: Mr. Morin, you commented on the potential burden that would be imposed upon persons with disabilities by the ETA account. Would you make a distinction between those persons with physical disabilities over against those with mental impairment?

MR. MORIN: Yes, I think so.

MR. MASSANARI: You would make a distinction.

MR. MORIN: Yes.

MR. MASSANARI: Comment on that a little bit further.

MR. MORIN: I think there needs to be special attention focused on that population to understand what their needs are, that whole issue of guardianships that's associated with those people and those questions need real focus.

MR. MASSANARI: Thank you.

MR. STOUT: I'd just like to ask one question and really just address it to both of you and if one or the other or both would like to comment, that would be very much appreciated. I know we focused a lot of our attention so far on unbanked recipients. Those who do not have a relationship with a financial institution. Half of the population that we're probably going to need to work with over the next several years are a population that already have a relationship with a financial institution but continue and choose to get a check-based payment. My question is what do you feel would be the issues and some of the concerns that we're going to be needing to address over the next several years in order to move this population, who already have the availability of electronic direct deposit, into choosing direct deposit as a means of getting their payment?

MR. MORIN: Let me begin. I'm a practicing elder law attorney and I spend a lot of time with senior citizens and dealing with financial issues. The financial issues that concern seniors, I mean this is a population that came through the depression and that situation is indelibly imprinted on their minds. You find maybe as the population ages there's a lot of skepticism and a lot of insecurity about money issues and the government I think and AARP had to take on the responsibility, too, of really focusing on the benefits of this program. Why you're doing it, the amount of money that's being saved to the government. And you really do need that kind of an education program to persuade the population, a very skeptical population and very circumspect with regard to money issues. That tangibility of that check has a significant meaning to the senior population and I think that that psychological hurdle is something that we're all going to have to work to overcome in addition to the other kinds of issues that we highlighted here this morning.

MR. REYNOLDS: I would second Mr. Morin's remarks and I would simply add that the education needs to be ongoing. The only concern I really have about the education process as I understand it that Treasury is going forward with is that there seems to be kind of maybe a cut off date. I'm not sure what the finding will be future efforts. That's endemic to government, I understand, but to the extent possible and achievable, the education effort needs to be ongoing and it needs to be fairly intense for the duration, at least through 2000 and that's not long enough, of course.

There are some other issues or remedies maybe that I somewhat hesitate to get into because things are a little bit nebulous now in this whole field, but I did mention individual development accounts in passing. And it's not clear how such an approach would look finally. But citizens who do not have bank accounts have a lot of reasons. Could be anything. A lot of times it's psychological. A lot of times it's just convenience. I myself probably wouldn't have a bank account if my company didn't insist on depositing checks into every employee's electronic account.

But for those people who could be persuaded to have an account -- and I think they should -- I think a lot of the problem has to do with they feel 1) that on the one side they'll be over-regulated by the bank and all its little requirements and that could involve some kind of rip off as they perceive it and 2) they're not sure that they can regulate themselves to the extent of keeping that account current and not incurring a lot of overdraft fees and so on that makes it almost cheaper in many cases, so they feel, to go through these check cashing and pawn shop places, what my colleague referred to as the fringe financial industry, I believe. We want to discourage that in all possible ways.

One way is to recognize reality. As these electronic fund transfer accounts and ETAs come on line, many of the people or many people will find that they're not really able to maintain them to what some would call a bankable standard. At that point, I think it would be very healthy for this society as a whole to have some kind of interventionary plan and why not individual development accounts since they are provided for under the Welfare Reform Act. They fit very well with the climate of the times which, for instance, the new CRA regulations that I referenced are very much devoted to encouraging partnerships between banks and community groups for the purpose of developing capacity with individuals for loans and so forth.

Why couldn't an individual development account or a provision for that that was allied with the EFT effort, revolution shall we say, why couldn't that do the same thing for personal management skills? As people fell out of the system or did not make use of their accounts or were overdrawn or what have you, however it finally shapes up, there would surely be a long line of people willing to partner with those people if that were possible within the system that you establish.

I think that individual development accounts will be -- well, they'll have a role in the future. Who knows what for sure? But I certainly think that you should structure in some possibility, some possibility of taking advantage of IDAs and aligning them with EFTs to do for personal management skills what some of the partnerships created under the new CRA regulations are doing for the ability to own a home or to get a loan. It's something to think about and more than we can handle right now I'm well aware but, for the record, something to think about.

In addition, let me emphasize the importance of mobile banking units in remote rural and reservation areas. Two of these that I know of are now operating, could be several more. And in one case, the bank that decided to operate a mobile banking unit on the poorest county in the nation did so with the clear intent of taking advantage of EFT law down the road and their plan is for a year to have the mobile banking unit going through the community so the people get accustomed to it and undoubtedly they'll have their loan officers and others talking to people. They'll be educating people about EFT. And I think mobile banking units are a good educational outreach component to areas you may well not get to otherwise.

And finally, I believe that as bankers travel, bankers in these mobile units travel across remote rural areas and reservations, they will find opportunities we can't even really think of right now to be of service and to extend the reach of EFT into these areas. Thank you.

MS. LANE: Thank you.

MR. MORIN: May I follow with one --

MS. LANE: Yes, Mr. Morin.

MR. MORIN: -- one positive note for you all to consider. Within the last month when I knew that I was going to be testifying here, I had an opportunity to visit with three chapters and the people who had then involved their government workers, retired government workers who had been a part of the electronic funds transfer program in the government, they were very positive in the remarks that they made concerning the number of years they'd been involved and the experience that they've had with it. I think that you all might consider building on the experience, letting the public know the experience that you've had with the program and, as I said, I thought I was pleasantly surprised to hear that so many of them had a positive experience for a long period of time.

MS. LANE: Thank you. Thank you, panelists. We will take a brief break just for a change in panelists, so please no more than three or four minutes. Thank you.

(Off the record for a seven minute break at 10:18 a.m.)

MS. LANE: Panel #2 consists of Jean Ann Fox, the Director of Consumer Protection for the Consumer Federation of America, Barbara Leyser, EBT Consultant to the National Consumer Law Center, and Imelda Marcos --

MS. GONZALEZ: Imelda Marcos. I brought the wrong shoes.

MS. LANE: Must have been your shoes. I apologize. Imelda Gonzalez who's the Associate Director of the National Association for Treasurers of Religious Institutions. If we could begin with Ms. Fox.

MS. FOX: Good morning. I appreciate this opportunity to comment on Treasury's proposed EFT 99 regulations on behalf of the Consumer Federation of America. Our 250 member organization represents approximately 50 million American consumers, many of whom receive federal checks which will be required to be electronically deposited by 1999.

Today I'll discuss our concerns about the lack of sufficient consumer protections in the proposed regulations and make some preliminary comments about the electronic transaction account. We will submit more extensive written comments in December with much more thoughtful discussion of what the default account should include and what services should be provided.

We're concerned about the impact of Treasury's proposed regulations on the 10 million Americans who now receive federal checks but who do not have bank accounts in which to deposit these funds. These citizens are often poor, less well-educated, and are often ethnic minorities. CFA has a long track record of advocating for bringing all consumers into the financial mainstream including support for basic checking accounts, adequate regulation of check cashers, requiring reasonable fees for banking services and providing consumer education and basic financial skills.

In adopting these regulations, Treasury has the opportunity to take a giant step toward creating a financial system that serves almost all consumers. If the proposed regulations are adopted without improved consumer protections, however, Treasury could continue the two tier financial system that now provides federally insured and regulated depository accounts for moderate to affluent consumers and uninsured, unregulated fringe banking services for the poor and the powerless.

Unfortunately, the proposed rules issued by Treasury do too little to protect the interests of this most vulnerable population. Instead of using the law to help draw these individuals into the mainstream banking system, the Treasury proposal, as I understand it, will push all too many into the arms of the unregulated, unsupervised wing of the financial services industry.

I'd like to address a few main points in the discussion today. The proposed rules appropriately require that federal funds be electronically deposited into financial institutions with accounts in the individual's name including insured banks, thrift, credit unions or foreign banks. CFA applauds this fundamental protection of the safety and the security of federal funds, but the most serious flaw in the proposed rules is that they will fail to impose minimum requirements on the accounts that recipients voluntarily establish to gain access to their electronic benefit payments. This leaves open the likelihood that banks will contract with non-bank entities such as check cashers, pawn shops, rent to own stores or small loan companies to provide access to funds deposited in the bank.

This summer CFA published a study of check cashing outlets in 23 of the largest cities across the country. Our telephone survey found that check cashers charge an average fee of 2.21 percent of the face value to cash government checks. Fees ranged from a low of .8 percent to a high of six percent of the face value of government checks. The most frequently charged rate we found was two percent. Therefore, a Social Security recipient cashing a $700 monthly check would pay $14 simply to turn that check into cash. Fees to cash government checks have risen 37 percent since CFA first started surveying them 10 years ago. There's no maximum charge for check cashing fees which permits outlets to collect hundreds of dollars from some Social Security disability recipients, for example.

Check cashers charge exorbitant fees for short-term loans at many locations. CFA found effective annual percentage rates for pay day loans payable in two weeks ranging from 261 percent to 913 percent APR. Surveys by U.S. -- this summer documented 100 percent average APR to rent to own stores. Pawnbrokers charge rates in the triple digits in some states. Small loan companies depend on frequent refinancing of high rate loans made to unsophisticated borrowers. These fringe bankers want a captive clientele of federal recipients who come through their doors every month to receive their federal benefits in order to sell them other unregulated or poorly regulated high cost financial services.

CFA urges Treasury to require that accounts voluntarily opened by federal payment recipients to receive electronic deposits at a minimum to include these provisions. Direct access to the account through the financial institution. No federal recipient should be required to access their accounts through a non-bank entity. The federal government should not lend its passive support to fringe bankers by permitting banks to create a second class customer status for EFT customers. Recipients should be able to access their accounts through ATMs and point of sale locations in their communities as well as directly through the banks.

A second provision should be that fees for bank accounts open to receive federal electronic deposits should meet the test of reasonableness. Consumer surveys document the rapid proliferation and price hikes for a dizzying array of bank fees. The most important to limit are monthly account fees, bounced check charges if these accounts permit check writing, and ATM fees. It would be regrettable if EFT 99 merely shifts the cost of issuing federal checks from the government to the recipient.

A third provision to the other consumer protections which must apply to these accounts including the electronic funds transfer act liability limits for off line debit card fraudulent use or theft and no fees for point of sales transactions. The prohibitions against attachment in the Social Security Act and other federal laws should apply to these accounts established to receive federal benefits.

And other consumer protections you might consider. In some states banks are exempt from state consumer protection law and, therefore, there should be a requirement that advertising be truthful and that business and sales practices be fair.

A second major point concerns the waivers that are contemplated under the rules. We support the approach that Treasury has taken to make waivers self-certifying. We recommend changes to the waiver proposals to simplify and alleviate hardships on recipients. The proposed rules do not permit enough federal recipients to claim a waiver from electronic deposit of funds for good reasons.

Proposed 208.4 -- grants waivers for individuals who have an account with a financial institution and who became eligible for a federal payment before July 26, 1996, for hardship due to physical disability or geographic barrier. Proposed 208B grants waivers for individuals who do not have an account with a financial institution regardless of when they became eligible for payment when use of EFT would impose a hardship due to a physical disability or a geographic barrier or where the use of EFT would impose a financial hardship on the individual. The latter group who have a financial hardship and no account will be provided a default account by Treasury. I think I understand this correctly.

The financial hardship waiver is not available to recipients who already have accounts with financial institutions because these individuals apparently are presumed to not incur additional expense to receive payment by EFT. Citizens who still have no account following the barrage of public relations and consumer education messages funded by the government can claim a financial hardship waiver. CFA supports expanding hardship waivers to apply to those both with and without a bank account who find that accounts available to them are too expensive. Apparently a recipient who voluntarily opens an account loses the opportunity to later claim hardship for financial reasons.

Expansion of financial hardship waiver to include all recipients at any time acknowledges the reality of continuing bank mergers and branch closings that can make current account relationships impossible and increases end fees that may make accounts unaffordable in the future. Making waiver categories consistent for all recipients regardless of when their federal benefits began has the advantage of simplifying the education and implementation process and will also diffuse public resistance to EFT 99 to some measure. The transition will be difficult enough without making a distinction between recipients whose benefits started on July 25, 1996 or July 27, 1996.

Waivers should also be available to citizens who have mental disabilities, literacy or education problems or lack of English fluency that would make it difficult for them to access their money electronically. People who are able to endorse the check with an X may very well find it daunting to follow the written directions on an ATM screen. While

Congress's goal in enacting this law was to save money, the rules implementing the law should not be onerous or coercive to the recipient.

Third point. Consumer education campaigns should be delayed until the recipients can be informed of their rights to obtain a waiver and the option of the ETA account. This is going to be hard enough to do without confusing people with doing that educational campaign until hopefully you have liberalized your waiver provision and you can tell them what the ETA account is going to be.

Desirable features in consumer protections for an ETA account I will give you some preliminaries on. We are working on some research that was funded by the Ford Foundation looking at the actual experiences of consumers in some low income areas of the country and we hope to use the results of this research to inform our comments to you in December. But just some preliminary thoughts.

We're still considering the optimum mix of features to propose. These accounts should be available at any time to any federal recipient who finds the ETA account to be a better bargain than other accounts on the market. The ETA account will become the base standard of comparison for financial institutions.

At a minimum, these accounts should be easily accessible through the financial institution, should make routine financial transactions such as bill paying possible, should encourage savings by allowing at least four free withdrawals a month to track your weekly bill paying cycle and should permit consumers to deposit other funds into the account. It is possible that the best option could be an electronic savings account coupled with low cost money orders or electronic utility bill paying services.

No ETA account should be available only through a non-bank entity such as check cashers. The fees for the ETA account must be bare bones. Many consumers have figured out free and low cost methods for getting their checks cashed. The cost of delivering the federal payment should not be shifted to recipients and some of the savings that would go to make default accounts affordable and ATM machines available.

We think you correctly defined authorized payment agents in your proposed regulations and we think it's correct that you have ruled that waivers should be self-certifying. Congress required Treasury to ensure that individuals required to have an account at a financial institution have access to such an account at a reasonable cost and are given the same consumer protections as other account holders. By failing to set minimum standards for voluntary accounts opened by recipients to comply with the law, I believe that Treasury failed to meet this requirement of the law.

By setting a two track waiver system, Treasury creates confusion and financial hardship for some recipients. By discarding waivers for mental health, literacy and non-English speaking reasons, Treasury places an undue burden on vulnerable people. By launching the public education campaign before the rules are set, default accounts are established, Treasury will cause public confusions and trunkage consumer options. Thank you.

MS. LANE: Thank you, Ms. Fox.

Ms. Leyser.

MS. LEYSER: I think I should start by saying although you're going to see a great deal of similarities between Jean Ann's testimony and mine, there was no collusion involved. I think it shows the unanimity of the consumer constituency on a number of these issues.

I'm pleased to be here today to share our views about Treasury's proposed implementation of EFT 99 and how it will impact upon the low income clients represented by the National Consumer Law Center. I'm a consultant to the National Consumer Law Center, NCLC, which has as a top priority providing technical and legal support in the areas of consumer banking and finance law. NCLC is recognized nationwide for its leadership in pursuing justice under the law and securing the legal rights of low income consumers to fair equitable financial services.

It is our position, based on our experiences in this area, that Treasury's proposed regulations without some dramatic modifications will impose serious hardships for a significant number of low income recipients of federal benefit payments throughout this country. We have five specific concerns which I'm going to be addressing today and then I also plan to provide some preliminary comments in response to the questions on the structure of the ETAs.

The five areas that we feel that there is inadequate regulation over EFT accounts. The hardship waivers are too limited, that there is an absolute need to guarantee that there are protections against attachment and set off that the protections that exist in current law apply to any ETA accounts or EFT accounts, that the public education campaign must fully inform recipients of all their options, and finally that the blanket waiver provision found at the end of the proposed regulations is far too broad and needs to be seriously rethought in our opinion.

With respect to the inadequacy of the regulations and what they cover, it is our strong position that all accounts established for the purpose of complying with EFT 99 should be regulated.

Treasury must regulate the types of institutions permitted to be conduits of federal funds. Only federally regulated financial institutions should be permitted to be such conduits. This would mean that partnering between a check casher and a bank would be prohibited if such partnering meant that funds could only be accessed through the check casher.

The recipient should always be able to access the federal payment through the financial institution as well as at other convenient locations through ATMs and POS devices of their own choosing. This interpretation is required by the federal law mandating EFT 99. The law does not differentiate between voluntary accounts and those established by Treasury. The law specifically requires that these protections apply to everyone required to have an account at a financial institution to comply with the law.

It is essential that Treasury require that federal beneficiaries be able to access their federal money through federally regulated financial institutions receiving the electronic transfer of their benefits. It is also essential that Treasury require that the fees charged for these accounts be reasonable in relation to both the federal benefit payment involved and the individual circumstances and that consumer protections apply to the transactions from the point the federal payment is electronically transferred to the account until the recipient withdraws the funds.

With respect to your proposed waivers, Congress gave Treasury the authority to allow waivers so that some federal benefit recipients would be able to receive their money through paper checks even after January 1999 and after the establishment of your ETAs. In enacting the law, Congress set out a number of areas where they thought waivers might be applicable including mental disability, education, limited English fluency or literacy problems. Fortunately in your proposed reg you chose to disregard what Congress had suggested. As a result, we feel that your waivers are overly limited.

In our opinion, Treasury has said that many people who should be allowed to continue receiving a paper check will no longer be permitted to unless under the self-certification they make a false claim about the nature of their hardship condition. That's a situation we would not want to see people find themselves in but we're afraid that under what you're proposing that may well be what happens.

All those recipients who did not have bank accounts get signed up for one in response to your urging in the public education that is going on at this point and now find that they can not afford the fees charged should be allowed to claim a financial hardship.

Recipients who have mental disabilities. Treasury's assumption that waivers would not be required for such persons because those who have mental disabilities that make them incapable of managing their own funds have representative payees is simply wrong. There is a shortage of rep payees in this country. I have heard from advocates in some states that in fact it is so hard to get rep payees that there are people now who sell their services to be a rep payee. There are firms that have been set up that for a fee will act as a rep payee to a client who feels that that is the only way they can get their federal benefit. So there is a shortage of rep payees. I think Social Security has long been aware of the difficulty in finding rep payees for all people that may be deemed to need them.

But there is also a group of people whose mental disability is not of such a severity that they can not manage their own funds in a paper-based environment. They can deal with the check; they can't deal with the electronic system. They can't deal with the intangible. They didn't need a rep payee under the old system. They were able to operate with a certain degree of independence. We're concerned with anything that would now take that independence away from them and force them into a rep payee situation just because of electronic funds transfer that they would not have needed before.

With respect to recipients who have literacy or educational problems or are not fluent in English, Treasury says in the proposed regulation that these factors don't pose any barriers unique to an electronic funds delivery system. Those people would have had difficulty in a paper-based environment. As Jean Ann pointed out, it doesn't take an ability to read or write to sign a check with an X. They can negotiate their check. Nor does it take an ability to read English to sign your name on the back of a check.

It does, on the other hand, require an ability to read English or one of the other limited languages that may be available on a POS or ATM screen to negotiate an electronic debit. My background, as Bettsy well knows, is with EBT. I remember one of the complaints in terms of talking about a literacy level, one of the complaints that some states had in the beginning was that recipients were abusing EBT by making multiple withdrawals, consecutive withdrawals, that a recipient would stand at a machine and make 10 $20 withdrawals and the argument that was being made by EBT officials was that clearly the recipient was abusing the system and costing the state all kind of money.

Well, if you walk up to a machine and you've got limited English literacy and the ATM machine says withdrawals can only be made in increments of $20, there is a sector of the population that is going to think that means that if they want to get $200 they've got to stand there and make 10 withdrawals. Not that they want to make 10 withdrawals, but they think that's what they're going to have to do. That's the level at which the screen messages on many ATMs is at. A large segment of the population we serve is not going to be able to translate that. Now maybe we could say the bank should do a better education job, but quite frankly I can't comprehend with my graduate level degree, I can't comprehend the disclosure statement I get from my bank regarding my ATM debit card. SSI beneficiaries certainly aren't going to be able to comprehend that.

The next area is the availability of the ETAs. While Treasury is spending a good deal of attention and focus, and properly so, on what features should be included in the ETAs, the problem is that under the proposed regs, if the recipient already has an account, Treasury's ETA account will not be available to them, even if the recipient could establish that the nature of their pre-existing account or the fees charged for it have changed substantially since it was originally set up and that it is no longer a workable situation for them. This is clearly inequitable. The ETA account should be available to all federal benefit recipients who wish to apply for it.

Again, protections from attachment and set off. Despite the clear protections in federal law against attachment and garnishment of Social Security, SSI and Veterans' Assistance benefits, numerous consumers do not use bank accounts specifically because they are afraid their limited funds will be taken by judgment creditors. Providing crystal clear prohibitions against attachment of funds in EFT accounts containing federal benefits we believe would bring many consumers back into financial institutions and into the financial mainstream.

Treasury's proposed regulations do not address this issue at all. We feel that it is essential that Treasury do include something on this in the regulations and that the regulations should flatly prohibit the attachment or garnishment of any funds into an account into which the covered federal benefit funds have been deposited. The reason we think this needs to be addressed in the regulations is because while SSA already has rules in place with respect to SSI and Social Security benefits, we know in fact that many banks aren't aware of those provisions and, therefore, when they hear from a creditor they do attach the funds, they do provide for garnishment.

We even know in Treasury's own limited EBT direct deposit pilot in Texas that Citibank was, when there was a claim of an unauthorized transfer, when there was a Reg E claim and the recipient lost that claim, Citibank simply went in and in effect garnished the money that they thought they were entitled to out of the Social Security or out of the SSI benefits and if there were insufficient funds in the account that month, they simply debited the next month's benefits to get what Citibank thought it was entitled to. That, from our understanding, is a clear violation of what Social Security law provides for but since Citibank was never informed of the SSI rules and the Title II Social Security rule, Citibank had no way of knowing that what they were doing was violating the law. I would suspect that if Citibank was doing it in the direct deposit pilot in Texas that it's also fairly common practice with regular direct deposit now of Social Security and SSI benefits.

The public education campaign needs to fully inform recipients of all their options. What is happening now is that people are hearing that EFT 99 is coming, that they are going to have to have direct deposit. They're not hearing that there are possible waivers that they may qualify for. They're not hearing that if they don't have an account in place that Treasury will be offering this other alternative to them.

What happens as a result of this and I don't know how many of these kinds of things are going on around the country but certainly one from Minnesota has come to our attention and this is an ad from the TV magazine that's included with the Sunday paper in

Minnesota that essentially says it's a spotlight on Social Security direct deposit and it essentially tells people that in just a few short months that the only way you can get your Social Security or SSI payments will be through direct deposit to a financial institution and what this says is -- it's put out by a check casher and basically it's don't worry. If you don't have an account, we have the perfect product for you and our perfect product for you will only cost you a $12 a year annual fee which we will waive for the first year so that you sign up with us, $12 annual feel, two ninety five disbursement fee which I assume is each time you want to get money from the account there's a two ninety five disbursement fee and a transaction fee of only two percent per check.

For somebody getting an SSI benefit of $500 a month, that means they're $10 in a transaction fee, one or more two ninety five disbursement fees, and what amounts to a $12 annual fee, $1 a month just to have the privilege of going only to this check casher to access the money that will be -- the account will be established at a bank for them but they will not be able to access it at the bank. The only way they will be able to get it if they go into this deal is through this check casher, paying this check casher's fees, and because of the way the public education campaign is proceeding at this time, we're concerned that many recipients who are remote from a bank themselves and think they have to have something in place are going to get into this. This would be what you would call a voluntary arrangement but it's not really something that the recipient might truly opt for if they knew what all was available and that there were waivers and that there would be this federal account available to them.

So to slightly vary from my predecessor, it's not so much that the public education campaign needs to be stopped because with this kind of stuff going on the bigger issue is we need to get accurate information out to recipients as quickly as possible about what all the options are.

The final concern that we have is with proposed Section 208.10. Without offering any explanation as to the need for or intent of this provision, Treasury simply proposes adding a regulation that would enable the Secretary at his or her sole discretion to waive any provision of the rules being talked about here today whenever the Secretary deems it necessary or appropriate and without having to go through any formal rulemaking process or apparently any other formal review process.

The inclusion of such a provision, in our opinion, renders the protections otherwise afforded under these regulations totally meaningless. Such broad authority makes an absolute mockery of our democratic form of government and must not be permitted under the final regulations. I'm not aware of any program -- my background is in public benefit programs, but I'm certainly not aware of any programs of that nature where there's a broad total blanket authority to waive any provision without any opportunity for public input or comment.

With respect to the ETAs, one of the questions that was asked was should Treasury make available a debit card based account for people who are required to receive their federal payments by EFT?

Short answer, yes, but this should not be the only type of account option offered to recipients as Treasury's own demographic study showed that of all the options this type of account is the least appealing to those who are unbanked. Moreover, in many rural areas local community banks do not have ATMs so debit card only accounts would be useless to recipients as they would be unable to readily access their funds.

With respect to the cost of the account, it's our opinion that yes, the cost of the account to the recipient is the overriding most important factor unless, of course, Treasury is willing to permit the majority of the currently unbanked to claim the financial hardship waiver from even the ETA account since most of these individuals can now get their checks cashed at little or not cost. To low income recipients living on fixed income, any new expense is in fact a financial hardship.

Accordingly, we would urge that Treasury seriously consider waiving all fees for basic ETA accounts for all unbanked recipients of needs-based federal benefits and that some sort of sliding fee scale be established for all other recipients based on their actual monthly income which would not just be what is their Social Security check but clearly we know many Social Security recipients may get a very low Social Security check but get a very high private pension, so I'm not saying that someone who's only getting $300 in Social Security, that that's all you would look at determining what the fee is but that the fee look at the total monthly income available to that individual.

The question of the number of withdrawals that should be provided. We contend that no fewer than four ATM withdrawals should be included in the base price, and that's talking only ATM. We don't believe that there should be any limitations on the number of POS transactions. And even looking at the four ATM transactions, evaluators of the Maryland EBT Project found that cash assistance recipients -- this was AFDC and general assistance recipients -- that they averaged 1.7 transactions per $100 a month in cash benefits. So with an SSI benefit of $500 a month, clearly saying four ATM transactions is a bare bottom line. We certainly would not support anything going below that.

Should the account terms address the charges imposed by ATM owners other than the account provider? It is our position that surcharging should be prohibited for all ETA transactions at either ATM or POS devices. Again, we point to the EBT experience and say that there is precedence for such a provision. Several states that run EBT programs expressly prohibit surcharging for EBT transactions or have otherwise worked out arrangements with the business sector to waive surcharges for such transactions which is the case in Maryland.

Should the account structure provide for additional electronic deposits within the basic monthly service charge? We believe that an unlimited number of other deposits to the account should be permitted at no additional cost to the recipient as such deposits are actually in the financial institution's own interest since they're the ones who are going to benefit from the float since these are non-interest bearing accounts. So yes, we think that it should be permitted but that the financial institution should bear the cost since they're the ones that'll reap the profit.

With respect to third party payments, we believe that third party payments should be permitted at recipient option. Again, we believe that this should not be at any cost to the recipient. The third parties involved should pick up the cost of any processing fees involved in such electronic transactions just as they do now for the general banking public since again, it's in their best interest to receive recurring payments in this manner.

We believe that Treasury should not designate any financial institution as the financial agent for providing ETA services in any geographic area where such institution has not provided evidence that it can guarantee reasonable free access to benefits to all those recipients living within that designated area including those recipients who may have special needs.

Finally, should access to the account be provided at outlets in addition to those normally offered by the financial institution? Yes, we support maximizing access to the greatest extent possible so yes, we support POS access at grocery stores, department stores, furniture stores, anybody that's willing to put in the equipment. We certainly support post office access. Our only concern is that recipient have reasonable access to multiple sources for accessing their funds including direct access through the financial institution's own ATM and POS structure if that is the route they choose.

I would again like to thank you for this opportunity to testify this morning and share our views on the issues of critical concern to the low income recipient of federal benefit payments we represent. I welcome the opportunity to continue to work with Treasury as this rulemaking process proceeds and other EFT implementation initiatives go forward. Thank you.

MS. LANE: Thank you, Ms. Leyser.

Ms. Gonzalez.

MS. GONZALEZ: Thank you, Ms. Lane.

Gentlemen, good morning. Before I begin, I might say to my fellow panelists, sister panelists, that some of the positions that we represent are going to be diametrically opposed to yours in some cases but that's not because we're not in sympathy with the persons that you represent. It's just that I represent a population that's got some very special parameters about it.

I am Sister Imelda Gonzalez, a member of the Congregation of Divine Providence in San Antonio, Texas, present today in my capacity as Associate Director of the National Association for Treasurers of Religious Institutes, a group we call NATRI. I might add that prior to taking this position, I served myself for 10 years as chief financial officer of my community so I have spent many hours in Social Security Administration reception rooms and on hold with the 800 number having personally processed well over 200 applications for retirement or SSI benefits.

I'm accompanied by Sister Margaret Perron, Esquire. She is a member of the Religious of Jesus and Mary of Hyattsville, Maryland and currently

Associate Director of the Legal Resource Center for Religious. Another of our colleagues, Sister Jane Muller, a Dominican Sister of Amityville, New York and President of the Religious Computer Systems, Inc., is not able to be here with us today but Sister Jane has done extensive work with religious institutes providing them with computer services for filing their SS-16s for processing their quarterly FICA payments and so forth. One of her most recent projects was to enter into dialogue with Mr. Michael Johnson of this panel and I will refer to Mr. Johnson's letter of September 9th in just a little bit.

The National Association for Treasurers of Religious Institutes, NATRI, is the professional organization serving the treasurers and chief financial officers of approximately 800 Roman Catholic religious institutes, often referred to in lay terms as Orders of Sisters, Priests, and Brothers, and in IRS terms as religious orders. The Legal Resource Center for Religious provides legal education information consultation to the same 800 Roman Catholic religious institutes. In particular, the

Legal Resource Center serves as a resource to the leaders, attorneys and financial advisors of these institutes on issues in church and civil law that impact them and their endeavors.

Both organizations are located and have offices in Silver Spring, Maryland, not Baltimore if that's rolling around some place. And we serve those same constituencies, the 800 religious institutes. It is important to understand that each religious institute is a separate and distinct organization in church law and civil law and for all business purposes. Each has its own organizing documents, its own federal identification number and its own bank account. These 800 religious institutes total approximately 100,000 men and women who have dedicated to their lives through vows of poverty, chastity and obedience to education, the care of the sick and the social services that these ladies have represented and the gentlemen before us as well.

It is documented that over half of these men and women, at least 54,000, are already over the age of 65. By tradition and by essential tenet of religious institutes, individual members do not manage their own finances. The vows we take and through them we signify that we have given over our concern for material needs and the management of financial affairs to the institute and to those individuals who at any given time have been elected or appointed to take care of the business of the institute as a whole or of the individuals.

Consequently, religious men and women do not receive personal income in compensation for their work and all funds are held in common. Because of this practice, religious were not eligible to participate in Social Security until October 30th of 1972, Exactly 25 years today Congress enacted amendments to Public Law 74.271, the original Social Security Act, and by those amendments legislation created the fiction of a fair market value of the food, clothing, shelter and other perquisites upon each religious institute could base it FICA payments.

So what happens is that the religious institute pays both the employee's part and the employer's part. The very way fact the way the legislation was written that it is the institute that elects to participate, already recognizes on the part of legislation or through the legislation that we are considered an entity. Once the institute elects to participate by filing the SS-16, then it commits itself to paying FICA for everyone who meets the criteria of being active in whatever work is assigned to that individual.

So we've been treated as a whole since the beginning. We don't have a precise count as to how many numbers of institutes have actually filed the SS-16 nor in turn how many of their members have been enrolled but we do believe it is a substantial number because we go out and we're not finding too many folks out there that aren't on Social Security. So this is the affected population that we bring to you today. I can also testify to the fact that as soon as direct deposit became an option, most of the larger groups availed themselves of that. I would shudder to think of having to process two or three hundred Social Security checks every month because that's what happens. They all come to one place.

So we use a common bank account and the deposits are made directly to that account, a separate account usually titled Common Fund for Retirement or Funds Held in Common for Retirement and from that bank account are transferred not into some long-term savings but immediately into a checking account -- I used to do it on the 5th of the month because those payments hit the bank on the 3rd -- and used for the actual support of the members wherever they might be.

Here's a key point. The individual members do not have signature privileges on those accounts. A bank account of that type is held in the name of the institute and one or several people are designated as the signers, usually the treasurer, sometimes the staff or other officers. So by choice these individuals have had their benefits deposited directly to an account held by the religious institute on which they do not have signatures but the individuals know that those pooled accounts, those pooled funds, are available for their support.

This system has worked very well for many years and we want to continue to use direct deposit.

Smaller groups that had not used it up to now that could handle three or four checks or seven or 10 in a month's time are willing and very interested in doing so. So why do we come before you?

Our problem lies in implementation. Agents at Social Security offices and bank personnel are each interpreting the current proposed regulations out of their own experience and sometimes lack of it in dealing with religious institutes with these SS-16 filers. So on the one hand, at our offices we're getting phone calls right now this week, last month from religious institutes who are already using direct deposit and who say I had somebody turn 65 and the bank won't let me add that person to the common bank account. What do we do?

On the other hand, the small groups who have not yet used the service and would like to do so are being told, as some we've heard before already today, that the banks don't want to deal with the small accounts. Now I'm talking about a Social Security benefit of $175, not $750 or $1,200. So to create a bank account for every individual to process

$175, you can see why banks do not want to get involved in that.

In some of the literature we received this morning we see the term sweep accounts defined and we have something like sweep accounts but the distinction is that we don't sweep it into some kind of an investment as an investment firm would do but we sweep it right into our operating fund and use them immediately.

So that's what the crux of our problem is, that the personnel who are out there interpreting your regs are interpreting them very narrowly and we can understand why they're written that way for the protection of other folks who don't have MBAs running their monies for them, but it is creating a situation for us.

Mr. Johnson suggested in his letter of the 9th of September a couple of procedures, those used by investment companies and nursing homes and for a while we looked at those and we saw that they had some merit and we haven't set them aside. When this opportunity came up, we thought we would try all avenues. Our concern is that the implementation in either of those cases is left to the field agents and the banks and those folks know that we're not investment companies and they know that we're not nursing homes because they went to our university and they know we're teachers, whatever it might be. I'm talking about down in the trenches, not far, far away. So it would be difficult to explain to them.

So our proposed solution and we go to the strongest, that is a written authoritative part of the regulation would be that you take your Section 208.2B which defines the authorized payment agent and you have that text on page five of your copy. It would read, we would propose it to read, "The authorized payment agent means any individual or entity that is appointed or otherwise selected as a representative payee or fiduciary to act on behalf of an individual entitled to federal payment" -- and this is all your language -- "under regulations of the SSA, Veterans Affairs" and so forth and add "or if the individual entitled to federal payment is a member of a religious order," that term having already been defined under

Revenue Procedure 91-20, etcetera. The text is provided.

We realize that the language has to be very carefully drafted in order not to cover what's sometimes called mail order ministries. I'm aware of that. That's why we are proposing the solution that relies on already settled principles of law that are established by the Internal Revenue Service and that had been operative for a number of years. We are willing and ready of course to work with you, with representatives of the agency, to find other appropriate wording or, in lieu of having language in the regulation itself, to have some type of correspondence on official stationary outlining the problem and stipulating that this is an acceptable practice given these conditions. Perhaps part of Mr. Johnson's letter pared down to take out the extraneous pieces.

(Laughter)

MS. GONZALEZ: About nursing homes and investment institutions.

MR. JOHNSON: Couldn't carry the letter

here. It was too heavy.

MS. GONZALEZ: Let him squirm. It was a very gracious letter written to Sister Jane Muller that described the situation.

I think it goes without saying that religious institutes have always protected the interests of their members and have used the payments received from Social Security for the support of those persons even though those individuals do not sign on the account into which the funds are deposited.

We have offered in our written text some other solutions. They have possibilities. We offer them simply to say we can see various ways of how this might be addressed and we're ready to work with you on it. Bottom line is we do want to use direct deposit. We are interested in that and it has worked for us in the past. We just need the authoritative language that is not open to the interpretation of the field agents.

So in conclusion I would refer to part of the text in the materials that we got off the Internet actually which says that there's Congressional interest in minimizing the hardship associated with conversion from check to EFT for some recipients and recognizes the wide variety of circumstances in which recipients live and work, and we've heard some of those circumstances. We'll bring you another little piece.

Membership in a religious order is another set of circumstances and we're here to say that those circumstances define the class of recipients that need a variance or a different interpretation and we're willing to dialogue. I'm sure that among us we could find, as I have said in my written text, the creative genius to craft the language that will describe what's already been in place and has worked. If it's happening, we can describe it. Thank you very much.

MS. LANE: Thank you. We appreciate the testimony from the three panelists. Now we'll go to questions.

MR. HAMMOND: I'd like to open it with just a quick comment more than a question per say and I think the circumstances that Ms. Gonzalez describes are a classic example of the kinds of details that, as you go through a regulatory process, will inevitably arise and to link that with Ms. Leyser's concerns about the Secretary's broad waiver authority. In fact, once one has completed a rulemaking process, it is exactly that type of authority which is designed to address the circumstances which will inevitably arise as we go through the process. I think that there are certainly adequate safeguards in place under the Administrative Procedures Act that the broad authority that the Secretary is being viewed as having in the regulation itself are already protected from doing rulemaking without notice and public comment but in fact it's really designed to deal with exceptional circumstances that may arise after the rule is final, in which case it's much more difficult to address the kind of characterizations that we're learning about today.

With that, I'll kind of ease into a first question which had to do with a comment made in both Ms. Fox's and Ms. Leyser's testimony having to do with a voluntary account relationship, the need for direct access to a financial institution. I just wanted to clarify in my own mind when you speak of direct access to a financial institution, once again in a voluntary account relationship, are you talking about that as being exclusive or are you talking about that as being one additional point of access?

MS. LEYSER: I would say no, it would not have to be exclusive, as I understand your question, but that it would have to be a mandatory option that's out there. In other words, there has to be access through the financial institution. It would then be at recipient option whether they chose to avail themselves of that access. For example, if it was an account such as the one that was described in this ad where you set it up with the check casher, we don't have a problem with access at check cashers as long as once that account is in place you can also go to the bank, you can go to the POS in the local grocery store. You can choose where you want to access the benefit. It's if you're limited to one location, that becomes a concern.

MS. FOX: Yes, that's the general idea. That you're considered a full-fledged bank customer, you can use the bank's own ATM system. Depending on the design of the account, you could actually deal with a human teller at a bank, that you wouldn't only be able to access your money through a third party entity that was not a financial institution.

We think the post office has potential here as a trusted entity that's available in all communities where consumers could go and access their funds through an ATM machine or a point of sale machine. The costs of doing that have to be worked out, but I hope you keep your eye on the post office as another source. But still people need to be first class bank customers, not second class bank customers.

MR. HAMMOND: Thank you very much.

MR. STOUT: Could I follow up? We had someone earlier testify and mention the post office and the indication was that in their view there would have to be a link between the post office and a financial institution. Do you have anything more to add to that kind of discussion?

MS. FOX: I know that in other countries you actually have postal banks for people set up, savings accounts and checking accounts. I'm not sure that the post office is in a position to do that, wants to do that, could do that. But at the very least you can have ATM machines and point of sale machinery within post offices. It's my understanding that they're in the process of installing that now and that gives you a place that supplements a bank. You still want to have the money in an insured depository situation so no one goes to Acapulco with your money, but access through a place that's not also going to try to lend you money at 2,000 percent interest or sell you a television for five times the retail price I think would be of service to people.

MR. STOUT: Thank you.

MR. MASSANARI: Ms. Fox, both you and Ms. Leyser talked about extending the waiver criteria to include those with mental impairments, mental disabilities. Can you talk a bit further about that and how you might set up the criteria and how you might structure the determination process for that.

MS. FOX: Barbara's probably had more experience with that clientele.

MS. LEYSER: For all your other hardship waivers, it's self-certifying. I don't see any reason why this would be any different. I don't see people with mental impairments or the illiterate or people who don't qualify as mentally disabled but are technologically adverse --

MR. MASSANARI: That's fine. I wanted to make sure that you were talking about self-certification as the proposed reg provides.

MS. LEYSER: Yes. We're not talking about creating any separate class or second class set of waivers where they'd have to go through more hoops. It would all be part of the same process.

MR. MASSANARI: That's helpful. Thank you.

MS. FOX: You don't want to foster the notion that government is coercing you into doing something you absolutely can not or will not or don't want to do. I know you want to save money from not having to mail out paper checks and to avoid the fraud and the loss that goes with the paper system and hopefully we can persuade people that they are in truth better off with direct deposit or electronic deposit of their money so that it's not stolen from the mailman going down the street or that their family doesn't come and clean them out the day they know they got their check cashed.

There are real advantages here if we do it right, but we don't want to set up a waiver system where you either encourage people to lie about the reason they want it or make it different depending on when something else happens. That's just not doable. Not a good idea.

MS. LEYSER: The other piece that plays into it is along with this public education campaign, I know that there seems to be this great hope on the part of the government that a bunch of community-based organizations will volunteer their services to train all these people and especially some of these people who otherwise might claim a hardship waiver and how to negotiate the system. Local community-based organizations are already stretched to the limit and having trouble finding funding to do the work that they've already taken on to do and I don't know -- I mean I would love to see that there's money available that we can tell these community groups that they can apply for grants or something to help do some of the training but I don't think that we can expect, even on the voluntary accounts, that the banks are going to do the training.

It is not going to be like when EBT started up and everybody got to come in and get hands on training and get all kinds of written material that may or may not have actually been written at their literacy level but were certainly written at a better level than what the banks provide you and I. If that's all people are going to get, there are going to be a whole lot of people out there that are going to need to claim some kind of hardship waiver but they're not going to be able to figure it out and I don't think you can rely on them, rely on the local Catholic Social Services or any other community-based organization to have the staff or resources to walk all these people down to an ATM or a POS and walk them through the process.

MS. LANE: A number of comments have been made about the public education campaign. Ms. Fox, I think you indicated that you thought we should delay the campaign until it was clear what the waivers might be and Ms. Leyser I think disagreed with that suggesting that the information was needed immediately. Would you care to comment?

MS. FOX: We're both right.

(Laughter)

MS. LEYSER: It's my understanding that you have in process contracts with public relations folk to put out a big campaign and that that campaign has not yet started. Am I confused or is that right? That's correct. It concerns us that that campaign might go forward with messages that we hope will become moot if you modify the regulations to do what we want you to do on waivers and that you're going to be urging people to open accounts but not have the ETA accounts ready to describe to people so that they don't know that that's coming or that that would suit them.

If we don't change this waiver business, once they obey that public education campaign and go out and open an account that turns out to cost too much for them, they can't go back. I feel bad about the public education campaign. If you would all would swear here that you're going to change the banks to make it so that people can change --

MS. LANE: Well, I don't think we can do that but what we can tell you is that we intend to involve organizations in formulating the messages of the public education campaign, involve as many organizations, as many representatives as possible with how this campaign will work because we do see this as key to getting the message out.

MS. LEYSER: I think part of the problem is that you have the official public education campaign which is your full blown campaign which really hasn't gone forward but then there's this unofficial stuff or the mail stuff that are going out with checks now. Those have been stopped?

MR. HAMMOND: There aren't any currently scheduled right now.

MS. LEYSER: Okay. At one point, I know that there was something on the table. Clearly, whether it's your public education campaign, clearly you have been doing a very aggressive job of getting materials out to the media so that there's been a lot of press coverage that may not understand all the subtleties. Well, may is not even accurate. That does not understand all the subtleties that arouse things like this ad to feed into it because there is information out there. People are hearing that this is coming and they're hearing it in a very shorthand way which is that by January 1999 you've going to have to have direct deposit and so whether your formal campaign has gone forward or not, there is information out there and the information that's out there is incomplete and inaccurate and I guess where we're coming from now is saying that we can't wait for the formal campaign to go forward, that we need to do something now to get complete and accurate information and maybe it's going back to the notion of the mail stuff or that yes, it's not going to be able to spell out what all the waivers are but to tell people there are going to be waivers, there is going to be this government option, you don't need to rush into something right now if you don't already have a bank account. We will be getting you more information.

MR. STOUT: I'm getting the impression your major concern in all of this rests with the unbanked community and those rushing to do something before --

MS. LEYSER: That's correct.

MR. STOUT: -- the options that may be available to them are clearly firmed up. Am I getting the correct sense?

MS. LEYSER: Yes, I think that's a major piece of it. I was just mentioning to Jean Ann and this might be a place to bring it up. My own personal experience recently. I just became the representative payee for my just become adult son who is determined to be eligible for SSA. I, of course, as his rep payee, was asked whether there was a bank account in place because it was after your deadline and elected direct deposit. I have yet to receive any kind of award letter from SSA concerning the amount of monthly benefits my son is entitled to. I have yet to receive anything that officially tells me what the benefits were retroactive to.

Yet, just out of curiosity, because his local worker had told me that yes, I just had to sign this piece of paper making me the rep payee but yes, he had been determined eligible, so just out of curiosity a couple of weeks ago I did a balance inquiry on that particular account and found that a lump sum had been deposited but I have nothing that tells me what I should have gotten, what that lump sum represents in terms of how many months are covered. He has some limited earnings income so his benefits probably vary month from month, but I don't have any idea whether the amount that was directly deposited into this account is the correct amount.

MR. MASSANARI: As soon as we finish up, we'll get together and we'll get you an award letter.

MS. LEYSER: But if this is how direct deposit is working now, I would think it's got to be causing real confusion out there.

MR. MASSANARI: There are times with some of the disability awards where the letters are coming out after the monies are deposited because the monies are deposited fairly quickly and the two things need to come together. You're quite right. But we can certainly --

MS. LEYSER: The money's been there for at least three weeks now and I still haven't gotten anything official in the mail.

MR. MASSANARI: That is not typical certainly of retirement survivors insurance. It tends to be more typical of disability payments.

Let me go back for just a moment to the issue though about public information and public education. I assume your concern again is just with the unbanked and the focus that we have right now on encouraging current beneficiaries to opt for EFT when they already have accounts is not a problem for you. That's not a concern.

MS. LEYSER: Well, if you take care of getting your notices out timely, I mean yes.

MR. MASSANARI: That's a separate issue.

MS. LEYSER: No. I mean seriously based on what I have just gone through, I would have to say if someone asked me should they do it, I would have to put a question mark there.

MR. MASSANARI: But I'm talking about those persons who are already receiving benefits via paper check and converting over. That issue then of an award letter is immaterial. It's not relevant at that point, and that's the focus that I'm talking about in terms of public information.

MS. FOX: The only catch there is at some point in the future the bank account may become unaffordable because the bank was bought out, merger, closed.

MR. MASSANARI: I appreciate that issue.

MS. FOX: And so you've got to fix this; you can't ever go back problem with the financial hardship waiver because even the bank recipients might be caught in a situation where they can never get a paper check again regardless of what happens to them.

MS. LANE: Any other questions?

MR. HAMMOND: I just had a request if I could of Ms. Leyser. Rather than to go into great detail today on the legal complexities of attachment and how attachment works relative to Social Security and its enabling statute, if you could in your comment letter provide a fairly detailed discussion of your interpretation of that, that would be very helpful for us as we go forward.

MS. LANE: Okay. Thank you, Panel #2. We will take a brief five minute break to set up for panel #3.

(Off the record for a 13 minute break at 11:43 a.m.)

MS. LANE: Panel #3 consists of Brian Satisky who's the President of the Maryland Check Cashers Association, Frank Amoruso, Senior Vice President, Check Free Corporation, and Don Graves, President of the Organization for New Equality. Mr. Satisky.

MR. SATISKY: Thank you. Good morning. My name is Brian Satisky. I'm the President of the Maryland Check Cashers Associations and a member of the board of directors of the National Check Cashing Association. My company, Coleen Inc., is located here in Baltimore. We operate five check cashing outlets and provide many other financial and public services.

I'm testifying here today on behalf of the National Check Cashers Association, NCCA, the professional organization representing check cashers in 35 states. Our financial service centers are the location of choice for many Americans, both with and without bank accounts, who choose to pay for their financial activities on a transaction basis.

Check cashers have always been able to adapt to meet the needs of our customers, and we are diligently working to respond to the federal payments mandate of Debt Collection Improvement Act of 1996. NCCA has appointed a Federal Payments Task Force which is evaluating proposals to work with financial institutions to continue to serve our customers who receive federal payments. We are working with some of the nation's leading financial institutions to bring efficient, cost effective service to our customers.

In June we issued a request for information to the financial service community seeking proposals for electronic distribution of federal payments using thousands of our convenient and safe locations throughout the United States as distribution points. We received nine responses and during the past several months we have met with these respondents and are now carefully evaluating each of the proposals. Each proposal would ensure that the recipient's funds would be protected by FDIC insurance and meet all Regulation E requirements.

The check cashing industry was among the first to help develop the electronic payment service for customers. Every month in New York City under the electronic payment transfer system we deliver millions of payments to public assistance recipients as part of a program that was put in place in 1985, long before EPT was being discussed in Washington and are developing innovative programs to provide ATM and other electronic services to our customers.

We will make further comments in detail on the proposed regulations after careful review and discussion among our members, but let me make some observations about the proposals released on September 16th.

We believe that the regulation should provide for the widest range of choices for the consumers and their delivery of payments. Some benefit recipients who don't have bank accounts may choose to obtain them although that option has always been available to them. Others may opt to utilize the Treasury's proposed electronic transfer accounts. What we as check cashers want is the right to provide additional convenience or value added services to those customers who choose to patronize our businesses.

Our customers today utilize our service because we provide personal service, longer hours, convenient locations, and offer more security than free standing ATMs. We also provide a large number of auxiliary services including utility payments, sale of money orders, wire transfers, auto registrations and transit fare sales. In order to receive these services, customers are very willing to pay a reasonable transaction fee.

Proposed regulations leave open the question of wheyther our members would be permitted to participate in the ETA program. The Department requests comments on that issue. It won't come as a surprise to you that we would like the option to be included as the end points to deliver benefits to those who choose to come to us. As I understand the proposal, the ETA will be established for individuals who don't act to arrange direct deposit or request a hardship waiver. Shouldn't they have the opportunity to decide for themselves whether to receive their funds in a bank or through a check casher?

Check cashers should be permitted to make an arrangement with a depository institution that receives the funds through the automated clearinghouse. Check cashers are not asking to be the exclusive outlets for funds. We ought to be an option for those individuals. We could be compensated either through a fee paid by the institution or by a fee paid by the recipient who is willing to pay for the convenience.

We are pleased that the proposed regulation does not anticipate restricting the right of check cashers and others to partner with banks to deliver the services to these individuals who receive federal payments. It is certainly a good public policy to provide alternatives for recipients but beyond that, any such restriction would threaten some other initiatives we are undertaking.

For example, in some areas we have begun to install ATMs in our stores to provide personal service in a secure environment. If Treasury were to deny us the right to contract with banks where account holders have direct deposit, then any account holder who receives a federal payment would be denied access to our ATMs. I also assume that any such restriction would mean that no grocery store could provide an ATM service to bank account holders receiving federal payments.

The Department has announced that it will design an ETA program that will provide services at reasonable cost to the consumer. The Department will have to be careful not to provide so many benefits that the cost must be raised to unreasonable levels. The federal EPT pilot in Houston, I understand, eventually had to impose charges on consumers that had not been anticipated at the pilot's inception. We would be concerned if the ETA offers a great deal of service, numerous free transactions for example, and then eventually raises fees as true costs are later determined. That situation would result in our loss of business and could result in some business closures. Then, after ETA fees are raised, our locations would not be there to provide those much needed services.

Some witnesses have questioned the fees we charge for cashing checks and I'd like to respond to that concern. The typical fee for cashing a payroll or government check is one to two percent. Some check cashers will cash personal checks but must charge a higher fee due to the obvious risk. These are reasonable fees when one considers that we provide personal service, must borrow our funds from banks and pay for armored car services, rent, heat and insurance and, unlike a bank, we do not have any of the customer's money on account. The point is that, like any other business, the cost to the consumer is the result of the cost of delivering the service and a reasonable return to the check casher.

In 13 states our fees are regulated. In

all states there's competition among check cashers and with other entities. Groceries stores, for example, cash far more checks than we do. No check casher could charge above the market rate for very long and stay in business. In fact, in some regulated states there is competition below the regulated fee cap.

In some of the criticism of our industry I perceive an assumption that our customers are not astute enough to understand the value of obtaining financial services from a bank and need to be protected from their own bad decisions. I have more respect for our customers than that. It is not at all unreasonable for an individual who only has to make a few payments a month or can't wait for a check to clear or wants a friendly personal service in his or her own language to come to a check casher. People are willing to pay a modest fee for service, particularly if they have been subject to bank overdraft charges in the past.

The proposed regulations permit liberal waivers and would permit recipients of federal payments to continue to receive their paper checks if they certify that. They would otherwise face vigorous and geographic or financial hardship. We believe this is a wise policy. We think many people will decide to open accounts but there will remain some of which electronic account would impose a hardship.

Thank you for your time and I'd be pleased to answer any questions later.

MS. LANE: Thank you.

Mr. Amoruso.

MR. AMORUSO: Thank you. Good morning. I'm Frank Amoruso with Check Free Corporation, Senior Vice President in charge of the division here in Baltimore. I'd like to thank you for the opportunity to comment on the proposed ruling by the Treasury Department.

I'd like to give you a little bit of background about who we are quickly and then cover our point here. Our corporation was founded in 1981 and is based in Atlanta. We are the leading provider of electronic commerce processing services and software products for more than 850 financial institutions, 2.1 million consumers and 1,000 businesses. Check Free designs, develops and markets services that enable its customers to make electronic payments and collections, automate paper-based recurring financial transactions, conduct secure transactions on the Internet.

Through our processing -- we provide financial institutions with unrestricted access, choice and control. By access, we mean we provide home banking, bill payment presentment, web investing and businesses and consumers can pay any bill on time through any payment network. By choice, we mean financial institutions, brokerage firms and businesses have complete freedom of choice in what financial electronic commerce services or software solutions they select including Quicken, Money '97, Managing Your Money and several others including privately branded solutions.

By control, we mean financial institutions maintain control over what they offer their consumer and business customers. Ultimately, our role is to provide our customers, the financial institution, with solutions for their customers and to do that in a transparent, behind the scenes manner.

To that end, we would like to offer our observations and suggestions during this comment period. We've noted from the mandatory EFT study done by Booz Allen in September of this year that FMS contracted for a four phase research effort to shape the future marketing efforts for individual recipients of federal benefit checks. We noticed in the study findings that the characteristics of benefit check recipients from different programs vary considerably according to the results from all four phases of the research.

In particular, however, we noticed the findings of why some recipients do not have bank accounts. The research indicates that this group is younger, lower income, more often than not a racial or ethnic minority, less educated, more likely to be a single parent than those with bank accounts. We also notice that this is the inclusion of this group that Under Secretary Hawk has noticed is the most significant social challenge of this legislation. Based on the focus group and the reasons given, the major reason that this group does not have bank accounts is financial rather than a fear of security or of not being educated on the benefits of direct deposit.

Check Free Corporation offers the ability for anyone to pay their bills at a fraction of the cost of a paper transaction, exactly the same goal that Treasury is attempting to achieve. We can offer this service through traditional ECH or the Internet. We can build a platform for the federal government to initiate payments on secured basis at a cost that would make it feasible for these non-banked recipients to afford an account at any financial institution.

The specifics of our strategy and execution would be better discussed in a different forum but our purpose today is to request that in your ruling Treasury consider making non-financial entities such as Check Free eligible to receive such deposits in order to make it economically feasible for the non-banked to participated in EFT 99.

Because of Check Free's fiduciary responsibly with major banks and financial institutions, we are uniquely positioned to provide value added marketing resources to interface with financial institutions to effectively communicate a neutral message to the afore-mentioned group of non-banking recipients. Most importantly, Check Free has the experience and expertise to provide a total turn key solution to meet the new federal government requirements.

In general, what we'd like to say is that the big concern or one of the big concerns is security and cost and Check Free having done for over 16 years can be a part of that if the legislation does not lock us out of that. Thank you.

MS. LANE: Thank you.

Mr. Graves.

MR. GRAVES: Thank you. Please forgive me if my voice begins to fade by the end of this. I think after three weeks of screaming at the TV and stress watching my team lose the World Series, my body is beginning to take it out on me.

The Organization for New Equality thanks you for the opportunity to present testimony today regarding the implications of EFT 99 on low and moderate income communities and communities of color. Organization for New Equality or ONE is a multi-racial organization whose top priority is expanding economic opportunity to people who have historically been excluded from the economic mainstream. Established in 1985 by the Reverend Doctor Charles R. Stitt as a nonprofit organization, ONE is working to develop and implement new economic strategies to promote equal opportunity, greater access to credit and capital for all communities and to encourage change. I did want to thank you for the promotion to President of ONE. I'm actually just the Vice President. I think Reverend Stitt would be a little bit upset with that.

EFT 99 offers the possibility of making a real change in the ability of unbanked consumers to access financial services and to enter the economic mainstream. Furthermore, the program provides additional levels of safety for recipient funds and may enhance consumers' ability to conduct their financial transactions efficiently and at a reasonable cost. However, we must recognize the many barriers which must be overcome lest the program provide no actual benefit to consumers.

Though the rules proposed by Treasury are good and headed in the right direction, it is important to refine many of the specific provisions of the proposed regulations to ensure that consumers and communities are adequately protected and will be able to use their program to their advantage.

I'd like to second the remarks of my colleagues from earlier this morning and I'll try to limit my testimony to those areas I feel to be most important so as not to be overly repetitive.

We feel that the proposed rules may not guarantee that all individuals will have access to such an account at a reasonable cost and are given the same consumer protections with respect to the account as other account holders at the same financial institutions. Under the proposed regulations, Treasury would only allow waivers to those persons with an account prior to July 26, 1996 if EFT 99 would impose a physical or geographic barrier.

Unfortunately, this would not allow for waivers to individuals based upon other barriers such as economic hardship, mental disabilities, literacy problems as well as language barriers. Equally problematic is the fact that under the proposed rules anyone who establishes or who has established an account pursuant to EFT 99 following the July 26, 1996 date would apparently be unable to receive a waiver for any reason.

The rules as currently proposed will not allow those who currently have accounts with financial institutions or those who establish such accounts pursuant to EFT 99 to opt into the ETA accounts. This provision seems to defeat one of the avowed purposes of EFT 99, to promote the entrance of the unbanked into the economic mainstream, especially where the use of a recipient's own voluntary account proves to be more costly or provides few protections than do the ETA accounts.

Unless Treasury plans to regulate voluntary accounts established pursuant to the rules without the ability to opt into ETA accounts, payment recipients may face the prospect of paying exorbitant fees for unregulated accounts or may be effectively prevented from seizing this opportunity to move into the economic mainstream.

The accounts currently being designed by Treasury to meet the needs of the unbanked must be structured such that federal payment recipients will be able to access their funds conveniently, safely and at a minimal cost and must receive the same protections as any other banking customer. As previously mentioned, the act itself requires that recipients be provided access through EFT 99 at a reason able cost and with the same protections as others. In order to accomplish these goals, the ETA accounts must have monthly service fees set at a bare minimum to ensure that recipients are not forced to seek a waiver due to economic hardship simply because of the way the accounts are structured.

Moreover, Treasury should seek to create an account and will provide the maximum number of monthly withdrawals possible. This in effect will help to encourage recipients to maintain money in their accounts for longer periods during the month in turn providing financial institutions with the opportunity to make a greater profit through the float resulting in lower monthly servicing costs.

Treasury's procurement of the ETA accounts must also ensure that adequate geographic access is provided and that direct access to funds through the vendor, financial institution, is available. While it is certainly helpful for recipients to be able to access their funds at a large number of facilities, be they ATMs or POS terminals, it is most important that these recipients have the ability to access their funds directly from the financial institution without the need for an intermediary such as a fringe banker, check cashers, rent to own stores and the like, where excessive fees may be charged to recipients for the access to their funds.

The public education campaign must be comprehensive and provide payments recipients with all information to ensure that the make reasoned and informed decisions. While it is important that Treasury structure the ETA accounts sooner rather than later, it has recently come to our attention that a number of fringe banking institutions have begun a public disinformation campaign to scare consumers into establishing accounts through those fringe bankers where fees may be much greater than that of other accounts and where access may be to a much lesser extent. This attempt to obfuscate and deceive consumers is deplorable and must be headed off by the Treasury education campaign.

Though we still believe it to be important for the specifics of the ETA account to be established before education begins about those accounts, it is more important for Treasury to inform the public of the fact that these accounts do exist and will be provided at a lot cost, easy access basis as an alternative to accounts being created by other institutions which are not insured, regulated depositories.

It should be clearly noted that both the implementation of EFT 99 as well as the public education campaign must recognize the many options in educating consumers around EFT 99. Though Treasury has entered into a contract to implement the campaign, this must not be viewed as the only means or best means of reaching people in a number of our nation's communities. A number of possible alternatives would be providing training through preexisting community programs, education campaigns established by consumer, community, church or other local and regional groups that have direct contact with many of the recipients.

Though the implementation of EFT 99 can be positive, the government must be certain that it does not result through deficiencies in either the rules themselves or the public education campaign in the estrangement of a large portion of our nation's unbanked and low and moderate income communities from the benefits of long-term relationships with mainstream financial institutions. We must also ensure that consumers are not forced into relationships with unregulated institutions whose interaction with community is solely to obtain the maximum amount of profit.

As we have stated throughout our discussions with Treasury around EFT 99, the government should not be in the business of forcing consumers into the arms of institutions which the government has no ability to oversee due to cost concerns or inadequate education or training.

Once again, we thank you for the opportunity to present our views on the proposed rules and look forward to the final rules. Please feel free to call on us at any time to provide additional information. Thank you.

MS. LANE: Thank you, panelists. We'll go to questions from the government panel now.

MR. HAMMOND: If I could ask a question of Mr. Amoruso and specifically when you talk about Check Free's ability or interest in participating in the offering of accounts, I guess there are two questions I'd like to break that into. In the first, do you envision that role being in both the voluntary as well as the government provided ETA account and then kind of the follow-on question would be that given the current state of the financial industry, presumably there would be a financial institution involved in this process or, if not, if you could explain briefly how that would work.

MR. AMORUSO: Yes. In response to the

first question, yes, we would do both the federal and voluntary. Secondly, and I think your more important question, there would always be a financial institution involved. What we bring to the table, an organization such as ourselves, is that some of the feedback that you might get and that we feel that we've heard from the financial institutions is the cost involved with providing this service, the electronic transfer and ETA, is substantial to the bank wherein we already have the infrastructure, we have the servers in place and all the technology and we make these transactions daily, millions of them. We feel like that's where we can bring a benefit. We're talking pennies versus larger numbers if you go strictly with a financial institution.

MR. HAMMOND: Thank you very much.

MR. MASSANARI: Mr. Satisky, I have heard, and I'm asking for clarification here, through some past material that we may have seen that I can't place my finger on at the moment that a substantial number -- and I don't know how to define that -- of customers of organizations like yours do have a bank account but choose to use the services of your organization. Do you have any figures that might shed light on that of where they do have a financial institution, a relationship with a financial institution and yet choose to use check cashers?

MR. SATISKY: There was a Roper survey done several years ago that declared that two-thirds of customers who use our services also had active bank accounts, to immediately answer your question. As to why I think those answers are relatively simple, because of the convenience, the extensive services that we offer that banks do not, the mere fact that in most cases the evolution of the money order, for instance, those who do not have checking accounts and have been buying money orders to pay their bills. Money orders at banks now are about $2 or $2.50 on an average whereas I know we have locations we give money orders away for free. Our highest price is 19 cents. So in those kind of situations, we have filled a void where some banking examples simply have seen their best time within the banks and have gone to us for those services.

MS. LANE: Mr. Graves, you mentioned that you thought there should be as many withdrawals as possible in the ETA account so that individuals would leave the money in there for savings purposes and also you mentioned that the bank would get the float from that. What kind of number are you thinking of? You've heard earlier today the number 10 mentioned, the number four was mentioned. Do you have an idea on that?

MR. GRAVES: I don't know if I could pick one specific number right now. I think that that's something that we need to look into weighing the types of costs that would be charged. Further discussions with banks and looking at the study that was done in Texas and trying to weigh those. I think that somewhere between four and 10 is definitely reasonable but I can't give you an exact number right now.

MR. STOUT: I think Mr. Satisky mentioned this in his testimony if I jotted down my notes correctly but I'd just like to address this one to the whole panel. Balancing the cost to the services is something that's going to have to be very carefully done with respect to the ETA account and I would just like the panel to give us some input. Given the balance, would you balance it more towards least cost and fewer services or more services and higher cost? I'd just like to get some feel from your perspective on that.

MR. SATISKY: I'd be happy to respond first on that. I would just tell you that the check cashing industry in general is very open-minded concerning this issue and we are certainly willing to negotiate any fair eventual price that would come down the line after those costs are examined. I don't have a number for you. It's impossible for me to get a number for you today as to what our intentions areas to what we would be looking for as a cost because we have no idea at this time what the volumes would be and what the hidden costs to run such a service would be but I would tell you that certainly our intention is to be open-minded and very negotiable.

MR. AMORUSO: I'd simply say that I concur with that at this point. What we brought to the table is that organizations such as ourselves would be considered the pricing, the cost, which way we would try to influence it. At this point, I don't think I could say anything about it.

MR. GRAVES: While we do believe that the maximum amount of benefits are very important, I think that it's perhaps even more important for our constituents who are low and moderate income consumers that cost be kept at a minimum. And this may be something that Treasury may be able to work out with banks that are perhaps providing accounts such as direct deposit too wherein the ETA accounts may be the baseline in terms of cost and financial institutions may be able to provide other accounts that may charge slightly higher fees but will be able to provide greater services.

MR. HAMMOND: Mr. Graves, there's been a recurring comment today talking about the need to broaden some of the waivers and there's one area in particular I'd just like to explore a little bit further and that is the differentiation of the question dealing with a waiver based on literacy as opposed to language fluency and I guess if you could elaborate a little bit on the need, whether or not it's truly related, whether from your standpoint the interest is more in a question of literacy regardless of the language in which one might be literate as opposed to a question of English fluency.

MR. GRAVES: From our perspective, I think it's both issues that are important because there are a significant number of people in the country who are illiterate in English and English is their primary language. At the same time, the language barriers, English being the language that oftentimes is provided at ATM terminals. We would like to see some sort of waiver provision such that people who don't necessarily speak English or Spanish or any of the other languages that are often provided at ATMs would be able to opt out.

MR. HAMMOND: Thank you.

MS. LANE: Mr. Satisky, you mentioned that money transmitters are regulated by states and I think you mentioned a number. I don't remember that. But what would your comment be if the federal government said it was looking for some sort of uniform standards?

MR. SATISKY: First I would tell you that they already have it. The 13 states that I mentioned are state regulated, but I will tell you that all states follow the same regulations that many banks and other financial institutions do, that Maryland currently does right now, in the respect that if somebody would come in to do a transaction in excess of $10,000, we have to file TTRs the same as any bank or any other depository institution would. We have to log mysterious or excessive money order purchases and those kinds of things to prevent any kind of money laundering and we are very, very adamant about that and so in many cases, even if the particular state is unregulated by the state, we at all time shave to abide by federal guidelines and federal regulations which are currently in place and we would have no objection incidentally if there was a -- and I believe they're in the process right now -- of a national registrar of check cashing and nonbanking financial institutions. We would absolutely have no objection to that. In fact, we encourage that. We encourage that.

MS. LANE: Thank you. Any other questions? Thank you very much, Panel #3. That will conclude the hearing for today. Let me remind you that there will be a transcript available within two weeks of today and you can check our web site or, as I indicated, let a Treasury representative know if you would like to receive a paper copy.

Thank you.

(Whereupon, the hearing was concluded at 12:26 p.m.)